

RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
TC/A.U. 3761

REMARKS/ARGUMENTS

Claims 1-15 and 29-33 are presented for the Examiner's consideration.

Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

Applicants have amended the independent claims to address a rejection under 35 USC § 112, second paragraph. The scope of the claims has not changed, but merely clarified. No new issues or new matter is raised by the foregoing amendments to claims 1, 8, and 29.

Claims 1-7 were rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. This rejection is respectfully **traversed** to the extent that it may apply to the claims, as currently amended.

The Examiner found that claim 1 was indefinite in that the claim stated in lines 9 and 10 that the liquid absorbent article encompassed the outer cover, the liquid permeable liner and the absorbent medium, but in lines 15 and 16 that the liquid absorbent device was joined to the outer cover. Applicants have amended claim 1 to clarify that the outer cover in lines 15 and 16 is joined to the liquid permeable liner and the absorbent medium, not the liquid absorbent device. A similar amendment was made to the penultimate line of claim 1. In addition, the language "that includes the liquid permeable liner and the absorbent medium" in the third and fourth lines from the end of the claim becomes redundant and has been removed from claim 1. As a result, the language of claim 1 has been merely rearranged to clarify the invention. Therefore, no new issues are raised by the amendments to claim 1.

In addition, similar amendments were made to independent claims 8 and 29. In reviewing the language of these claims, language similar to that which was rejected in claim 1 was discovered. Applicants have proactively corrected this same issue in claims 8 and 29 by making similar amendments to claims 8 and 29.

Claims 1-6, 8-14 and 29-33 were rejected under 35 U.S.C. § 102 as allegedly being anticipated and thus unpatentable over Parr, EP 0 471 385A1. This rejection is respectfully **traversed** to the extent that it may apply to claims as currently amended, as well as the claims before the foregoing amendments.

RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
TC/A.U. 3761

As the Examiner is aware, in order for a reference to anticipate a claim, each and every claim limitation must be taught or suggested in the reference. Parr fails to anticipate the present claims for at least one reason.

Specifically, Parr fails to teach a liquid permeable liner as is clearly required by each of the independent claims, and the independent claims before they were amended by the foregoing amendments. In the Office Action, the Examiner states that page 2, line 9 of Parr teaches a liquid permeable liner. Applicants are unable to find any teaching in Parr which suggested that a liquid permeable liner is required or can be used in the absorbent article of Parr. Without this teaching, Parr does not teach each and every limitation of the claims of the invention, as amended above, or before the claims were amended.

Further, claims 6, 12 and 33 require a release strip. Parr teaches away from using a release strip and the invention of Parr is a way to fold the absorbent article so that a release strip is not necessary (see page 2, lines 13-22, lines 40-49 and other locations within Parr). Therefore, claims 6 and 12 are further not anticipated for this additional reason.

The rejection under 35 USC § 102(b) based on Parr is untenable and should be withdrawn.

Claims 7 and 15 were rejected under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Moder et al., U.S. Patent 5,827,251. This rejection is respectfully traversed.

The rejection as stated is based solely on Moder et al. The reasoned statement of why claims 7 and 15 are rejected would suggest that Parr is also relied upon to reject claims 7 and 15. Applicants are confused as to which references are relied upon to reject claims 7 and 15. MPEP 707.07(d) requires that the grounds of rejection be fully and clearly stated. Here, the basis of rejection is not clearly stated. As a result, the Examiner should reissue the Office Action clearly setting forth the grounds of rejection. Since the Office Action is a Final Office Action, for purposes of Appeal, Applicants can only consider claims 7 and 15 to be rejected solely on the basis of Moder et al.

Applicants will address the rejection as stated. As was stated in the amendment dated January 5, 2005, Moder et al. teach the combination of an absorbent article and a separate wrapper or backing 60. For example, in Moder et al. at column 7, lines 44-60 and column 8, lines 10-25, as well as column 13, lines 17-28, it repeatedly teaches that the

RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
TC/A.U. 3761

protective backing 60 of the sanitary napkin product is removed before use of the product on an undergarment. In addition, the configuration of the combination of vaginal insertion device and absorbent article of Moder et al. is rolled and not folded, as required by the present claims. Accordingly, claims 7 and 15 are novel and patentably distinct over Moder et al.

With respect to the teaching of Parr, as stated by the Examiner, Parr does not teach adding a vaginal insertion device with the absorbent article. It is noted that Parr folds the absorbent article, and it is unclear how the absorbent article of Parr could be folded with a vaginal insertion device contained within the absorbent article. The combination of Moder et al. with Parr would direct one skilled in the art to roll laterally the absorbent article with the vaginal insertion device, rather than fold the absorbent article as the Applicants claim. Therefore, the combination of Parr with Moder et al. would not direct one skilled in the art to the invention of claims 7 and 15.

Applicants respectfully request the rejection of claims 7 and 15 be withdrawn for the reasons stated above.

Since the foregoing rejections are not viable against the claims before the foregoing amendments are made to the claims, and the foregoing amendments merely clarify the claims in response to a rejection under 35 USC § 112, second paragraph, entry of the foregoing amendments would not raise any new issues that would require further consideration or a further search. If the Examiner refuses to enter the foregoing amendments on this basis, Applicants respectfully request the Examiner to clearly explain what the new considerations are. In addition, the basis of the rejection of claims 7 and 15 is not clearly set forth, i.e. it is unknown whether Parr is relied upon in the rejection. Therefore, if the Examiner still finds that the current claims are not allowable, even after considering the foregoing arguments, the Examiner should issue a new Office Action clearly setting forth the proper basis of rejection.

In any event for the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance.

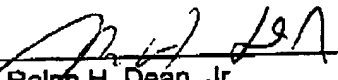
RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
TC/A.U. 3761

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The undersigned may be reached at: 920-721-3892.

Respectfully submitted,
RICHARD W. KUMBALEK ET AL.

By:


Ralph H. Dean, Jr.

Registration No.: 41,550

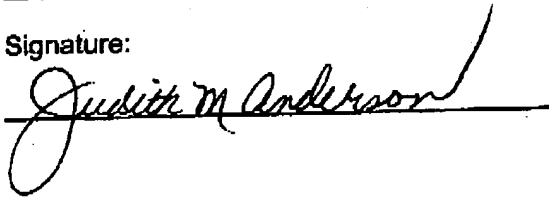
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